Attorney's Docket No. 042933/269773 PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No.:	10/688,430	Confirmation No.: 2213
Applicant(s):	Aaltonen et al.	
Filed:	10/17/2003	
Art Unit:	2457	
Examiner:	Michael C. Lai	
Title:	SYSTEM AND ASSOCIATED TERMINAL METHOD AND COMPUTER PROGRAM PRODUCT FOR RECORDING CONTENT USAGE STATISTICS	

Customer No.: 00826

Mail Stop Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

APPEAL BRIEF TRANSMITTAL
(PATENT APPLICATION – 37 C.F.R. § 41.37)

1. Transmitted herewith is the APPEAL BRIEF in this application, with respect to the Notice of Appeal filed on April 1, 2009.

2. ☐ Applicant claims small entity status.

3. Pursuant to 37 C.F.R. § 41.20(b)(2), the fee for filing the Appeal Brief is:
   - ☐ small entity $270.00
   - ☒ other than small entity $540.00 Appeal Brief fee due: $540.00
   - ☒ Any additional fee or refund may be charged to Deposit Account 16-0605.

Respectfully submitted,

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No.: 10/688,430 Confirmation No.: 2213
Appellant(s): Aaltonen et al.
Filed: October 17, 2003
Art Unit: 2157
Examiner: Lai, Michael C.
Title: SYSTEM AND ASSOCIATED TERMINAL, METHOD AND COMPUTER PROGRAM PRODUCT FOR RECORDING CONTENT USAGE STATISTICS

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APPEAL BRIEF UNDER 37 CFR § 41.37

This Appeal Brief is filed pursuant to the "Notice of Appeal to the Board of Patent Appeals and Interferences," filed April 1, 2009, and the "Notice of Panel Decision from Pre-Appeal Brief Review," mailed May 27, 2009.

1. ***Real Party in Interest.***

The real party in interest in this appeal is Nokia Corporation, the assignee of the above-referenced patent application.

2. ***Related Appeals and Interferences.***

There are no related appeals and/or interferences involving this application or its subject matter.

3. ***Status of Claims.***

All of the pending claims, namely Claims 1-6, 8-25, 27-42, 44-59 and 61-71, stand rejected and are the subject of the present appeal.

4. ***Status of Amendments.***

There are no unentered amendments in this application.

5. ***Summary of Claimed Subject Matter.***

The claimed invention will now be summarized with references to passages of the specification and drawings. It should be understood, however, that the references are provided solely for explanatory purposes, and should not otherwise in and of themselves be taken to limit the scope of the claimed invention.

According to one aspect of the claimed invention, and with reference to FIGS. 1-6, for example, independent Claim 1 recites a system including a terminal **10** and a destination (e.g., origin server **24**). As recited, the terminal is configured to access at least one piece of content from a memory **96** of the terminal in an offline manner after receipt of the piece(s) of content. Pat. Appl., p. 20, l. 28 – p. 21, l. 10; and FIG. 6, block **102**. Access of the piece(s) of content is a trigger to the terminal to obtain its location; and accordingly, the terminal is configured to obtain its location in response to the trigger. *Id.* at p. 21, ll. 11-31; and FIG. 6, block **104**. The terminal is also configured to store, into a content usage log, at least one content usage statistic relating to the access of the piece(s) of content from memory, where at least one content usage statistic comprises the location of the terminal. *Id.* at p. 22, ll. 1-17; and FIG. 6, blocks **106**, **108**. The destination, in turn, is configured to receive the content usage log including the content usage statistic(s). *Id.* at p. 22, l. 18 – p. 23, l. 5.

Independent Claim 20 recites an apparatus **10** including a controller **74** configured to access at least one piece of content from a memory **96** in an offline manner after receipt of the piece(s) of content. Pat. Appl., p. 20, l. 28 – p. 21, l. 10; and FIG. 6, block **102**. Access of the piece(s) of content is a trigger to the controller to obtain a location of the apparatus; and accordingly, the controller is configured to obtain the location of the apparatus in response to the trigger. *Id.* at p. 21, ll. 11-31; and FIG. 6, block **104**. The controller is also configured to store, into a content usage log, at least one content usage statistic relating to the access of the piece(s) of content from memory, where at least one content usage statistic comprises the location of the apparatus. *Id.* at p. 22, ll. 1-17; and FIG. 6, blocks **106**, **108**.

Independent Claim 37 recites a method including accessing at least one piece of content from a memory **96** of a terminal **10** in an offline manner after receipt of the piece(s) of content. Pat. Appl., p. 20, l. 28 – p. 21, l. 10; and FIG. 6, block **102**. Access of the piece(s) of content is a trigger to obtain a location of the terminal; and accordingly, the method also includes obtaining the location of the terminal in response to the trigger. *Id.* at p. 21, ll. 11-31; and FIG. 6, block **104**. The method further includes causing at least one content usage statistic relating to the access of the piece(s) of content to be stored into a content usage log, where at least one content usage statistic comprises the location of the terminal. *Id.* at p. 22, ll. 1-17; and FIG. 6, blocks **106, 108**.

Independent Claim 54 recites a computer program product for recording at least one content usage statistic, where the computer program product includes a computer-readable storage medium having computer-readable program code portions stored therein. Pat. Appl., p. 29, l. 20 – p. 30, l. 20. As recited, the computer-readable program code portions include first, second and third executable portions. The first executable portion is configured to access at least one piece of content from a memory of a terminal in an offline manner after receipt of the piece(s) of content. *Id.* at p. 20, l. 28 – p. 21, l. 10; and FIG. 6, block **102**. The access of the piece(s) of content is a trigger to obtain a location of the terminal; and accordingly, the second executable portion is configured to obtain the location of the terminal in response to the trigger. *Id.* at p. 21, ll. 11-31; and FIG. 6, block **104**. The third executable portion is configured to store at least one content usage statistic relating to the access of the piece(s) of content into a content usage log, where at least one content usage statistic comprises the location of the terminal. *Id.* at p. 22, ll. 1-17; and FIG. 6, blocks **106, 108**.

According to another aspect of the claimed invention, and with reference to FIGS. 1-5 and 7, for example, independent Claim 11 recites a system similarly including a terminal **10** and a destination (e.g., origin server **24**). According to this aspect, the terminal is configured to access at least one piece of content from a memory **96**, where the piece(s) of content include at least one piece of pre-broadcast content related to and including broadcast content. Pat. Appl., p. 26, ll. 1-4; p. 26, l. 12 – p. 27, l. 11; and FIG. 7, blocks **114, 116**. The terminal is also configured to store, into a content usage log, at least one content usage statistic relating to the terminal

accessing the at least one piece of pre-broadcast content from the memory. *Id.* at p. 27, ll. 12-27; and FIG. 7, block **118**. The destination, in turn, is configured to receive the content usage log including the content usage statistic(s) before the broadcast content is broadcast. *Id.* at p. 28, l. 5 – p. 29, l. 4; and FIG. 7, block **120**.

Independent Claim 29 recites an apparatus **10** including a controller **74** configured to access at least one piece of content from a memory **96**, where the piece(s) of content include at least one piece of pre-broadcast content related to and including broadcast content. Pat. Appl., p. 26, ll. 1-4; p. 26, l. 12 – p. 27, l. 11; and FIG. 7, blocks **114**, **116**. The controller is also configured to store, into a content usage log, at least one content usage statistic relating to accessing the piece(s) of pre-broadcast content from the memory. *Id.* at p. 27, ll. 12-27; and FIG. 7, block **118**. The controller, in turn, is configured to send the content usage log to a destination before the broadcast content is broadcast. *Id.* at p. 28, l. 5 – p. 29, l. 4; and FIG. 7, block **120**.

Independent Claim 46 recites a method including accessing at least one piece of content from a memory of a terminal, where the piece(s) of content include at least one piece of pre-broadcast content related to and including broadcast content. Pat. Appl., p. 26, ll. 1-4; p. 26, l. 12 – p. 27, l. 11; and FIG. 7, blocks **114**, **116**. As also recited, the method includes storing, into a content usage log, at least one content usage statistic relating to accessing the piece(s) of pre-broadcast content from the memory. *Id.* at p. 27, ll. 12-27; and FIG. 7, block **118**. The method further includes sending the content usage log to a destination; and thereafter broadcasting the broadcast content. *Id.* at p. 28, l. 5 – p. 29, l. 4; and FIG. 7, block **120**.

Independent Claim 63 recites a computer program product of recording at least one content usage statistic including first, second and third executable portions. Pat. Appl., p. 29, l. 20 – p. 30, l. 20. As recited, the first executable portion is configured to access at least one piece of content from a memory of a terminal, where the piece(s) of content include at least one piece of pre-broadcast content related to and including broadcast content. Pat. Appl., p. 26, ll. 1-4; p. 26, l. 12 – p. 27, l. 11; and FIG. 7, blocks **114**, **116**. The second executable portion is configured to store at least one content usage statistic relating to accessing the piece(s) of pre-broadcast content into a content usage log. *Id.* at p. 27, ll. 12-27; and FIG. 7, block **118**. And the third

executable portion is configured to send the content usage log to a destination before the broadcast content is broadcast. *Id.* at p. 28, l. 5 – p. 29, l. 4; and FIG. 7, block **120**.

6. ***Grounds of Rejection to be Reviewed on Appeal.***

Pending Claims 1-6, 8-25, 27-42, 44-59 and 61-71 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,798,785 to Hendricks et al., in view of U.S. Patent No. 5,826,168 to Inoue et al. Pending Claims 1 and 8 also stand rejected under 35 U.S.C. § 112, second paragraph, for being indefinite. The remaining claims, namely Claims 7, 26, 43 and 60 have been cancelled.

7. ***Argument.***

As indicated above, pending Claims 1-6, 8-25, 27-42, 44-59 and 61-71, stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,798,785 to Hendricks et al., in view of U.S. Patent No. 5,826,168 to Inoue et al; and pending Claims 1 and 8 are also rejected under 35 U.S.C. § 112, second paragraph, for being indefinite. As explained below, Appellants respectfully submit that the claimed invention is definite and patentably distinct from Hendricks and Inoue, taken individually or in any proper combination. In view of the remarks presented herein, Appellants respectfully request reconsideration and reversal of the rejections of all of the pending claims.

A. Functional Claim Language

Initially, Appellants note that in the response to arguments section of the final Official Action, the Examiner appears to be suggesting a "statement of use" argument for discounting recitations of the claims. Official Action of Jan. 6, 2009, pp. 2-3. However, Appellants respectfully submit that functional language, such as "configured to," is definite and acceptable claim language. Section 2173.05(g) of the MPEP defines a functional limitation as "an attempt to define something by what it does, rather than what it is (e.g., as evidenced by its specific structure or specific ingredients)." In this regard, a functional limitation is often used in association with an element to "define a particular capability or purpose that is served by the

recited element, ingredient or step." *Id.* More particularly, the Court of Customs and Patent Appeals (predecessor to the Court of Appeals for the Federal Circuit) has held that the limitations "adapted to be fitted," "adapted to be affixed" and "adapted to be positioned," "serve to precisely define present structural attributes of interrelated component parts of the claimed assembly." MPEP § 2173.05(g), *citing In re Venezia*, 530 F.2d 956 (C.C.P.A. 1976) (emphasis added).

Moreover, and more particularly with respect to similar functional language, "configured to," Appellants note that it has been held that an apparatus configured (e.g., programmed) to perform various steps or functions creates a new apparatus. *See In re Alappat*, 33 F.3d 1526, 1545 (Fed. Cir. 1994); and *see id.* at 1569-1570 (Newman, concurring) ("Alappat's rasterizer is an electronic device for displaying a smooth waveform by selective illumination of pixels. The Alappat rasterizer operates by performing a sequence of steps in accordance with instructions that are generated electronically. ... The structure resides in the configuration by which the device operates, as [the majority] has explained, and is independent of how that configuration is provided.") (emphasis added). *See also In re* Noll, 545 F.2d 141, 148 (CCPA 1976) ("[The claimed invention] comprises physical structure, including storage devices and electrical components uniquely configured to perform specified functions through the physical properties of electrical circuits to achieve controlled results. Appellant's programmed machine is structurally different from a machine without that program.").

Appellants therefore respectfully submit that to the extent the claims of the present application include structure positively performing various functions, or include components configured to perform various functions, those limitations must be evaluated and considered like any other claim limitation.

B. Claims 1 and 8 are Definite

Pending Claims 1 and 8 stand rejected under 35 U.S.C. § 112, second paragraph, for being indefinite; the Examiner alleging that "the term 'its' renders the claim indefinite because it is unclear what exactly 'it' is referring to." Official Action of Jan. 6, 2009, p. 4. Appellants respectfully disagree, and submit that in accordance with simple English grammar, the claims are

in fact clear as to the term "its." Independent Claim 1 (and similarly Claim 8) recite that a terminal is triggered to obtain "its" location (i.e., "a trigger to the terminal to obtain its location, the terminal being configured to obtain its location in response to the trigger"). Appellants submit that as clearly recited by Claims 1 and 8 "its" refers to the terminal – that is, Claims 1 and 8 clearly refer to the terminal obtaining the terminal's (i.e., "its") location. See also Merriam-Webster's Online Dictionary, *Definition of its* (visited Mar. 30, 2009) <http://www.merriam-webster.com/dictionary/its> (defining "its" as follows: "of or relating to it or itself especially as processor, agent, or object of an action").

C. Claims 1-6, 8-10, 20-25, 27, 28, 37-42, 44, 45, 54-59, 61, 62 and 71

Claims 1-6, 8-10, 20-25, 27, 28, 37-42, 44, 45, 54-59, 61, 62 and 71 stand rejected as being unpatentable over Hendricks, in view of Inoue. According to a first aspect of the present invention, as reflected for example by independent Claim 1, a system includes a terminal and a destination. The terminal is configured to access one or more pieces of content from a memory of the terminal in an offline manner after receipt of the piece(s) of content, where the access of the piece(s) of content is a trigger to the terminal to obtain its location. Accordingly, the terminal is configured to obtain its location in response to the trigger. The terminal is also configured to store, into a content usage log, one or more content usage statistics relating to the access of the piece(s) of content from memory. In this regard, one or more content usage statistics comprises the location of the terminal. The destination, then, is configured to receive the content usage log including the content usage statistic(s).

In contrast to independent Claim 1, neither Hendricks nor Inoue, taken individually or in any proper combination, teaches or suggests a terminal accessing the content (with which the content usage statistic(s) are related) from memory of the terminal at some point in time after having received the content, that access of content triggering the terminal to obtain its location and store content usage statistic(s) including the location. The Examiner cites Hendricks for allegedly disclosing this feature of independent Claim 1. In this regard, the Examiner cites the four-bit address of a set-top terminal in a polling-request response message (as in FIG. 7b) as allegedly corresponding to the recited terminal location. Even if one could argue that the set-top

terminal address of Hendricks corresponds to a location of that terminal (the accuracy of which is expressly not admitted), however, including the address in a response message is not the same as obtaining the location of the terminal. Further, nowhere does Hendricks teach or suggest that its terminal accesses content from memory, and that this access triggers the terminal to obtain its location (address) and store statistics including that location, similar to independent Claim 1 reciting that accessing content from memory triggers the terminal to obtain its location and store statistic(s) including that location.

Hendricks discloses the set-top terminal receiving a polling request message addressed to the terminal, and sending to the requesting headend, a response message including its address and information (program access information) related to the terminal's access of broadcast programs. One may argue that the set-top terminal of Hendricks inherently stores its address in memory (although the accuracy of this argument is expressly not conceded). At best, then, one may argue that Hendricks' set-top terminal may obtain its address (location) from the polling request message or its own memory (for inclusion in the response message). In neither instance, however, does the terminal accessing content from its memory trigger the terminal to obtain its address, similar to independent Claim 1. Rather, in both instances, at best one may argue that the terminal receiving the headend polling request triggers the terminal obtaining its address. The Examiner in the final Examiner even admits of this interpretation, stating: "Since the response message includes the terminal's address, the terminal must obtain its location in response to the request." Official Action of Jan. 6, 2009, p. 3. Again, instead of a terminal obtaining its location in response to a request, independent Claim 1 recites that accessing content from the terminal's memory triggers the terminal to obtain its location.

As to independent Claim 1, in addition to asserting that recitations of Appellants claims are intended use recitations (addressed above in Section 7.A.), the Examiner in the final Official states:

> *In addition, Hendricks discloses a set-top terminal that stores data tracking those programs that have been selected for viewing and, after receiving a polling request message addressed to the terminal, the terminal sends to the requesting Operations Center, a response message including its address and information (program access information) related to the terminal's access of broadcast programs (see column 13 line 56 through column 14 line 6, and column*

> *15 line 55 through column 16 line14 [sic]). Since the response message includes the terminal's address, the terminal must obtain its location in response to the request. The Operations Center receives the broadcast information including the location of the set top terminal from the terminal. Indeed, Hendricks discloses all structure and functionalities in claim1 [sic] even given consideration to the intended use of claim 1.*

Final Official Action of Jan. 6, 2009, pp. 3-4. This explanation by the Examiner, however, further illustrates the distinction between Hendricks and the claimed invention. As noted by the Examiner, "the terminal must obtain its location in response to the request [from the Operations Center]." *Id.* As recited by independent Claim 1, on the other hand, the terminal is configured to obtain its location in response to the terminal accessing content from memory (the access being a trigger).

Appellants therefore respectfully submit that independent Claim 1, and by dependency Claims 2, 3, 6 and 8-10, is patentably distinct from Hendricks and Inoue, taken individually or in any proper combination. Appellants submit that independent Claims 20, 37 and 54 recite subject matter similar to that of independent Claim 1, including triggering obtaining the location of a terminal or apparatus by accessing content from memory in an offline manner (Claim 20), or memory of the terminal or apparatus in an offline manner (Claims 37 and 54), and storing content usage statistic(s) including the location. Appellants therefore respectfully submit that independent Claims 20, 37 and 54, and by dependency Claims 21, 22, 25, 27, 28, 38, 39, 42, 44, 45, 55, 56, 59, 61, 62 and 71, are also patentably distinct from Hendricks and Inoue, taken individually or in any proper combination, for at least the reasons given above with respect to independent Claim 1.

D. Claims 11-19, 29-36, 46-53 and 63-70

Claims 11-19, 29-36, 46-53 and 63-70 stand rejected as being unpatentable over Hendricks, in view of Inoue. According to a second aspect of the present invention, as reflected for example by independent Claim 11, a system again includes a terminal and destination. According to this aspect of the present invention, the terminal is configured to access one or more pieces of content from a memory, where the piece(s) of content comprise one or more pieces of pre-broadcast content related to broadcast content. The terminal is also configured to

store, into a content usage log, one or more content usage statistics relating to the terminal accessing the piece(s) of pre-broadcast content. The destination is configured to receive the content usage log including the content usage statistic(s) before the broadcast content is broadcast.

As to independent Claim 11, the Examiner concedes that Hendricks does not teach or suggest pre-broadcast content. Nonetheless, the Examiner alleges that Inoue discloses this feature, and that it would have been obvious to one skilled in the art to modify Hendricks to include the feature. Even considering Inoue, however, Appellants respectfully submit that neither Hendricks nor Inoue, taken individually or in combination, teach or suggest a terminal accessing pre-broadcast content (including broadcast content) from memory, storing statistics related to that access, and sending those statistics to a destination before the related broadcast content is broadcast.

Appellants note that independent Claim 11 recites accessing pre-broadcast content (including broadcast content) from memory and sending statistics related to that access before the broadcast content is broadcast. Independent Claim 11 therefore inherently requires availability of broadcast content (of the pre-broadcast content) from memory before that broadcast content is broadcast – otherwise, the broadcast content (of the pre-broadcast content) may not be accessed from memory, as explicitly recited. By contrast, Inoue is premised on recording content as that content is broadcast, and therefore does not support availability of broadcast content from memory before its broadcast. Inoue may disclose broadcasting the same content on multiple channels in a time-delayed manner. But even given this feature, no content of Inoue is available from memory before its broadcast since it's by broadcast of the content that the content is recorded and made available in memory.

Moreover, Appellants respectfully submit that to the extent that one may argue (albeit incorrectly) that content broadcast on another channel from which that content is recorded may be interpreted as recording (and thus, making available in memory) content before its broadcast, Appellants respectfully submit that there is no apparent reason why one skilled in the art would modify Hendricks, Inoue or their combination as alleged. The Examiner alleges that one skilled in the art would be motivated to modify Hendricks and Inoue "to try to collect pre-broadcast

statistics by receiving content usage statistics before the broadcast content is broadcast, thereby providing useful information about media sampling/promotion." Given that Inoue discloses multiple, partially-overlapping broadcasts of content, however, only a short interval is available between the broadcast of content on multiple channels. Examples according to Inoue include a time delay of fifteen or seventeen minutes for a two-hour broadcast. Thus, according to the asserted modification of Hendricks and Inoue, not only would a user have to access recorded content from memory within this fifteen/seventeen minute window, but that user's terminal would have to send statistics related to that access within that window. Appellants question, however, the extent to which one skilled in the art would have an apparent reason to modify Hendricks and Inoue to not only presume access of stored content within this short of a window, but also require sending of statistics relating to that access, within that short of a window, particularly given that the destination would likely not realize any benefit from receiving such statistics before the next broadcast of the content.

Appellants therefore respectfully submit that independent Claim 11, and by dependency Claims 12-19, is patentably distinct from Hendricks and Inoue, taken individually or in any proper combination. Appellants submit that independent Claims 29, 46 and 63 recite subject matter similar to at least those portions of independent Claim 11 that are discussed above, including storing, into a content usage log, content usage statistics relating to accessing piece(s) of pre-broadcast content from memory; and sending the statistics to (or receiving the statistics at) a destination before the related broadcast content is broadcast. Appellants therefore respectfully submit that independent Claims 29, 46 and 63, and by dependency Claims 30-36, 47-53 and 64-70, are also patentably distinct from Hendricks and Inoue, taken individually or in combination, for at least the reasons given above with respect to independent Claim 11.

8. ***Claims Appendix.***

The claims subject to this appeal are as follows:

1. (Previously Presented) A system comprising:

a terminal configured to access at least one piece of content from a memory of the terminal in an offline manner after receipt of the at least one piece of content, the access of the at least one piece of content being a trigger to the terminal to obtain its location, the terminal being configured to obtain its location in response to the trigger, wherein the terminal is also configured to store, into a content usage log, at least one content usage statistic relating to the access of the at least one piece of content from memory, and wherein at least one content usage statistic comprises the location of the terminal; and

a destination configured to receive the content usage log including the at least one content usage statistic.

2. (Previously Presented) A system according to Claim 1, wherein the terminal is configured to receive at least one piece of content in accordance with a broadband data broadcast technique, and wherein the at least one piece of content comprises at least one piece of content for at least one channel comprising at least one of a television, radio or data channel.

3. (Previously Presented) A system according to Claim 2, wherein the terminal is configured to send the content usage log to the destination when a return channel between the terminal and the destination is at least one of available or established.

4. (Previously Presented) A system according to Claim 1, wherein the terminal is configured to access at least one piece of content comprising at least one piece of pre-broadcast content related to broadcast content, and wherein the terminal is configured to send the content usage log to the destination before the broadcast content is broadcast.

5. (Previously Presented) A system according to Claim 4, wherein the at least one piece of pre-broadcast content comprises a set of at least one television program over a given time period for at least one television channel, wherein the terminal is configured to access the at least one piece of pre-broadcast content at least a predefined period of time before the broadcast content is broadcast, and wherein the predefined period of time comprises the given time period.

6. (Previously Presented) A system according to Claim 1, wherein the terminal is configured to store at least one content usage statistic further comprising at least one statistic related to at least one of the terminal or the at least one piece of content accessed from the memory.

7. (Cancelled)

8. (Previously Presented) A system according to Claim 1, wherein the terminal is configured to repeatedly access at least one piece of content, each access being a trigger to the terminal to obtain its location, the terminal being configured to obtain its location in response to each trigger and store at least one content usage statistic for at least one period of time, and wherein the terminal is further configured to send the content usage log to the destination after each period of time.

9. (Previously Presented) A system according to Claim 1, wherein the destination is configured to receive the content usage log including the at least one content usage statistic such that a network entity is configured to send, to the terminal, at least one piece of content based upon the at least one content usage statistic.

10. (Previously Presented) A system according to Claim 1, wherein the terminal is configured to store at least one content usage statistic further comprising at least one of a type of the at least one piece of content accessed from the memory, a time the at least one piece of content was accessed from memory, information regarding used connection types, or information

regarding available connection types comprising at least one of a signal strength, capacity or utilization rate of the connection types.

11. (Previously Presented) A system comprising:

a terminal configured to access at least one piece of content from a memory, wherein the at least one piece of content comprises at least one piece of pre-broadcast content related to broadcast content, the pre-broadcast content including the broadcast content, wherein the terminal is also configured to store, into a content usage log, at least one content usage statistic relating to the terminal accessing the at least one piece of pre-broadcast content from the memory; and

a destination configured to receive the content usage log including the at least one content usage statistic before the broadcast content is broadcast.

12. (Previously Presented) A system according to Claim 11, wherein the terminal is configured to receive at least one piece of content in accordance with a broadband data broadcast technique, and wherein the at least one piece of content comprises at least one piece of content for at least one channel comprising at least one of a television, radio or data channel.

13. (Previously Presented) A system according to Claim 12, wherein the terminal is configured to send the content usage log to the destination when a return channel between the terminal and the destination is at least one of available or established.

14. (Previously Presented) A system according to Claim 11, wherein the terminal is configured to store at least one content usage statistic further comprising at least one statistic related to at least one of the terminal or the at least one piece of content accessed from the memory.

15. (Previously Presented) A system according to Claim 11, wherein the terminal is configured to access at least one piece of content from a memory of a terminal in an offline manner.

16. (Previously Presented) A system according to Claim 11, wherein the terminal is configured to repeatedly access at least one piece of content and store at least one content usage statistic for a period of time before the broadcast content is broadcast, and wherein the terminal is configured to send the content usage log to the destination after the period of time and before the broadcast content is broadcast.

17. (Previously Presented) A system according to Claim 11, wherein the at least one piece of pre-broadcast content comprises a set of at least one television program over a given time period for at least one television channel, wherein the terminal is configured to access the at least one piece of pre-broadcast content at least a predefined period of time before the broadcast content is broadcast, and wherein the predefined period of time comprises the given time period.

18. (Previously Presented) A system according to Claim 11, wherein the destination is configured to receive the content usage log including the at least one content usage statistic such that a network entity is configured to send, to the terminal, at least one piece of content based upon the at least one content usage statistic.

19. (Previously Presented) A system according to Claim 11, wherein the terminal is configured to store at least one content usage statistic further comprising at least one of a type of the at least one piece of content accessed from the memory, a time the at least one piece of content was accessed from memory, information regarding used connection types, or information regarding available connection types comprising at least one of a signal strength, capacity or utilization rate of the connection types.

20. (Previously Presented) An apparatus comprising:

a controller configured to access at least one piece of content from a memory in an offline manner after receipt of the at least one piece of content, the access of the at least one piece of content being a trigger to the controller to obtain a location of the apparatus, the controller being configured to obtain the location of the apparatus in response to the trigger, and

wherein the controller is also configured to store, into a content usage log, at least one content usage statistic relating to the access of the at least one piece of content from memory, wherein at least one content usage statistic comprises the location of the apparatus.

21. (Previously Presented) An apparatus according to Claim 20, wherein the apparatus is configured to receive at least one piece of content in accordance with a broadband data broadcast technique, and wherein the at least one piece of content comprises at least one piece of content for at least one channel comprising at least one of a television, radio or data channel.

22. (Previously Presented) An apparatus according to Claim 21, wherein the controller is configured to send the content usage log to a destination when a return channel between the apparatus and the destination is at least one of available or established.

23. (Previously Presented) An apparatus according to Claim 20, wherein the apparatus is configured to receive and store at least one piece of content comprising at least one piece of pre-broadcast content related to broadcast content, wherein the controller is configured to send the content usage log to a destination before the broadcast content is broadcast.

24. (Previously Presented) An apparatus according to Claim 23, wherein the at least one piece of pre-broadcast content comprises a set of at least one television program over a given time period for at least one television channel, wherein the controller is configured to access the at least one piece of pre-broadcast content at least a predefined period of time before the broadcast content is broadcast, and wherein the predefined period of time comprises the given time period.

25. (Previously Presented) An apparatus according to Claim 20, wherein the controller is configured to store at least one content usage statistic further comprising at least one statistic related to at least one of the apparatus or the at least one piece of content accessed from the memory of the apparatus.

26. (Cancelled)

27. (Previously Presented) An apparatus according to Claim 20, wherein the controller is configured to repeatedly access at least one piece of content, each access being a trigger to the controller to obtain the location of the apparatus, and the controller is configured to obtain the location of the apparatus in response to each trigger, and repeatedly store at least one content usage statistic for at least one period of time, and wherein the controller is further configured to send the content usage log to a destination after each period of time.

28. (Previously Presented) An apparatus according to Claim 20, wherein the controller is configured to store at least one content usage statistic further comprising at least one of a type of the at least one piece of content accessed from the memory, a time the at least one piece of content was accessed from memory, information regarding used connection types, or information regarding available connection types comprising at least one of a signal strength, capacity or utilization rate of the connection types.

29. (Previously Presented) An apparatus comprising:

a controller configured to access at least one piece of content from a memory, the at least one piece of content comprising at least one piece of pre-broadcast content related to broadcast content, the pre-broadcast content including the broadcast content,

wherein the controller is also configured to store, into a content usage log, at least one content usage statistic relating to accessing the at least one piece of pre-broadcast content from

the memory, and wherein the controller is configured to send the content usage log to a destination before the broadcast content is broadcast.

30. (Previously Presented) An apparatus according to Claim 29, wherein the apparatus is configured to receive at least one piece of content in accordance with a broadband data broadcast technique, and wherein the at least one piece of content comprises at least one piece of content for at least one channel comprising at least one of a television, radio or data channel.

31. (Previously Presented) An apparatus according to Claim 29, wherein the apparatus is configured to send the content usage log to the destination when a return channel between the apparatus and the destination is at least one of available or established.

32. (Previously Presented) An apparatus according to Claim 29, wherein the controller is configured to store at least one content usage statistic further comprising at least one statistic related to at least one of the apparatus or the at least one piece of content accessed from the memory of the apparatus.

33. (Previously Presented) An apparatus according to Claim 29, wherein the controller is configured to access at least one piece of content from a memory of a apparatus in an offline manner.

34. (Previously Presented) An apparatus according to Claim 29, wherein the controller is configured to repeatedly access at least one piece of content and repeatedly store at least one content usage statistic for a period of time before the broadcast content is broadcast, and wherein the controller is configured to send the content usage log to a destination after the period of time and before the broadcast content is broadcast.

35. (Previously Presented) An apparatus according to Claim 29, wherein the at least one piece of pre-broadcast content comprises a set of at least one television program over a given time period for at least one television channel, wherein the controller is configured to access the at least one piece of pre-broadcast content at least a predefined period of time before the broadcast content is broadcast, and wherein the predefined period of time comprises the given time period.

36. (Previously Presented) An apparatus according to Claim 29, wherein the controller is configured to store at least one content usage statistic further comprising at least one of a type of the at least one piece of content accessed from the memory, a time the at least one piece of content was accessed from memory, information regarding used connection types, or information regarding available connection types comprising at least one of a signal strength, capacity or utilization rate of the connection types.

37. (Previously Presented) A method comprising:

accessing at least one piece of content from a memory of a terminal in an offline manner after receipt of the at least one piece of content, the access of the at least one piece of content being a trigger to obtain a location of the terminal;

obtaining the location of the terminal in response to the trigger; and

causing at least one content usage statistic relating to the access of the at least one piece of content to be stored into a content usage log, wherein at least one content usage statistic comprises the location of the terminal.

38. (Previously Presented) A method according to Claim 37 further comprising:

receiving at least one piece of content into the memory of the terminal in accordance with a broadband data broadcast technique, wherein the at least one piece of content comprises at least one piece of content for at least one channel comprising at least one of a television, radio or data channel.

39. (Previously Presented) A method according to Claim 38 further comprising:

sending the content usage log to a destination when a return channel between the terminal and the destination is at least one of available or established.

40. (Original) A method according to Claim 37 further comprising:

receiving at least one piece of content into the memory of the terminal, wherein the at least one piece of content comprises at least one piece of pre-broadcast content related to broadcast content;

sending the content usage log to a destination; and thereafter

broadcasting the broadcast content.

41. (Original) A method according to Claim 40, wherein the at least one piece of pre-broadcast content comprises a set of at least one television program over a given time period for at least one television channel, wherein accessing at least one piece of content comprises accessing at least one piece of pre-broadcast content at least a predefined period of time before the broadcast content is broadcast, and wherein the predefined period of time comprises the given time period.

42. (Previously Presented) A method according to Claim 37, wherein causing at least one content usage statistic to be stored comprises causing, to be stored, at least one content usage statistic further comprising at least one statistic related to at least one of the terminal or the at least one piece of content accessed from the memory of the terminal.

43. (Cancelled)

44. (Previously Presented) A method according to Claim 37, wherein accessing at least one piece of content, obtaining a location of the terminal, and causing at least one content usage statistic to be stored comprise repeatedly accessing at least one piece of content, each access being a trigger to obtain the location of the terminal, obtaining the location of the terminal

in response to each trigger, and causing at least one content usage statistic to be stored for at least one period of time, and wherein the method further comprises:

sending the content usage log to a destination after each period of time.

45. (Previously Presented) A method according to Claim 37, wherein causing at least one content usage statistic to be stored comprises causing, to be stored, at least one content usage statistic further comprising at least one of a type of the at least one piece of content accessed from the memory, a time the at least one piece of content was accessed from memory, information regarding used connection types, or information regarding available connection types comprising at least one of a signal strength, capacity or utilization rate of the connection types.

46. (Previously Presented) A method comprising:

accessing at least one piece of content from a memory of a terminal, wherein the at least one piece of content comprises at least one piece of pre-broadcast content related to broadcast content, the pre-broadcast content including the broadcast content;

storing, into a content usage log, at least one content usage statistic relating to accessing the at least one piece of pre-broadcast content from the memory;

sending the content usage log to a destination; and thereafter

broadcasting the broadcast content.

47. (Previously Presented) A method according to Claim 46 further comprising:

receiving at least one piece of content into the memory of the terminal in accordance with a broadband data broadcast technique, wherein the at least one piece of content comprises at least one piece of pre-broadcast content for at least one channel comprising at least one of a television, radio or data channel.

48. (Previously Presented) A method according to Claim 47, wherein sending the content usage log comprises sending the content usage log to a destination when a return channel between the terminal and the destination is at least one of available or established.

49. (Previously Presented) A method according to Claim 46, wherein storing at least one content usage statistic comprises storing at least one content usage statistic further comprising at least one statistic related to at least one of the terminal or the at least one piece of content accessed from the memory of the terminal.

50. (Original) A method according to Claim 46, wherein accessing at least one piece of content comprises accessing at least one piece of content from a memory of a terminal in an offline manner.

51. (Original) A method according to Claim 46, wherein accessing at least one piece of content and storing at least one content usage statistic comprise repeatedly accessing at least one piece of content and storing at least one content usage statistic for a period of time before broadcasting the broadcast content, and wherein sending the content usage log comprises sending the content usage log to a destination after the period of time and before broadcasting the broadcast content.

52. (Previously Presented) A method according to Claim 46, wherein the at least one piece of pre-broadcast content comprises a set of at least one television program over a given time period for at least one television channel, wherein accessing at least one piece of content comprises accessing the at least one piece of pre-broadcast content at least a predefined period of time before the broadcast content is broadcast, and wherein the predefined period of time comprises the given time period.

53. (Previously Presented) A method according to Claim 46, wherein storing at least one content usage statistic comprises storing at least one content usage statistic further

comprising at least one of a type of the at least one piece of content accessed from the memory, a time the at least one piece of content was accessed from memory, information regarding used connection types, or information regarding available connection types comprising at least one of a signal strength, capacity or utilization rate of the connection types.

54. (Previously Presented) A computer program product for recording at least one content usage statistic, the computer program product comprising a computer-readable storage medium having computer-readable program code portions stored therein, the computer-readable program code portions comprising:

a first executable portion configured to access at least one piece of content from a memory of a terminal in an offline manner after receipt of the at least one piece of content, the access of the at least one piece of content being a trigger to obtain a location of the terminal;

a second executable portion configured to obtain the location of the terminal in response to the trigger; and

a third executable portion configured to store at least one content usage statistic relating to the access of the at least one piece of content into a content usage log, wherein at least one content usage statistic comprises the location of the terminal.

55. (Previously Presented) A computer program product according to Claim 54 further comprising:

a fourth executable portion configured to receive at least one piece of content into the memory of the terminal in accordance with a broadband data broadcast technique, wherein the at least one piece of content comprises at least one piece of content for at least one channel comprising at least one of a television, radio or data channel.

56. (Previously Presented) A computer program product according to Claim 55 further comprising:

a fifth executable portion configured to send the content usage log to a destination when a return channel between the terminal and the destination is at least one of available or established.

57. (Previously Presented) A computer program product according to Claim 54 further comprising:

a fourth executable portion configured to receive at least one piece of content into the memory of the terminal, wherein the at least one piece of content comprises at least one piece of pre-broadcast content related to broadcast content; and

a fifth executable portion configured to send the content usage log to a destination before the broadcast content is broadcast.

58. (Previously Presented) A computer program product according to Claim 57, wherein the at least one piece of pre-broadcast content comprises a set of at least one television program over a given time period for at least one television channel, wherein the first executable portion is configured to access at least one piece of pre-broadcast content at least a predefined period of time before the broadcast content is broadcast, and wherein the predefined period of time comprises the given time period.

59. (Previously Presented) A computer program product according to Claim 54, wherein the third executable portion is configured to store at least one content usage statistic further comprising at least one statistic related to at least one of the terminal or the at least one piece of content accessed from the memory of the terminal.

60. (Cancelled)

61. (Previously Presented) A computer program product according to Claim 54, wherein the first executable portion is configured to repeatedly access at least one piece of content, each access being a trigger to obtain the location of the terminal, the second executable portion is configured to obtain the location of the terminal in response to each trigger, and the third executable portion is configured to repeatedly store at least one content usage for at least one period of time, and wherein the computer program product further comprises:

a fourth executable portion configured to send the content usage log to a destination after each period of time.

62. (Previously Presented) A computer program product according to Claim 54, wherein the third executable portion is configured to store at least one content usage statistic further comprising at least one of a type of the at least one piece of content accessed from the memory, a time the at least one piece of content was accessed from memory, information regarding used connection types, or information regarding available connection types comprising at least one of a signal strength, capacity or utilization rate of the connection types.

63. (Previously Presented) A computer program product of recording at least one content usage statistic comprising:

a first executable portion configured to access at least one piece of content from a memory of a terminal, wherein the at least one piece of content comprises at least one piece of pre-broadcast content related to broadcast content, the pre-broadcast content including the broadcast content;

a second executable portion configured to store at least one content usage statistic relating to accessing the at least one piece of pre-broadcast content into a content usage log; and

a third executable portion configured to send the content usage log to a destination before the broadcast content is broadcast.

64. (Previously Presented) A computer program product according to Claim 63 further comprising:

a fourth executable portion configured to receive at least one piece of content into the memory of the terminal in accordance with a broadband data broadcast technique, wherein the at least one piece of content comprises at least one piece of pre-broadcast content for at least one channel comprising at least one of a television, radio or data channel.

65. (Previously Presented) A computer program product according to Claim 64, wherein the third executable portion is configured to send the content usage log to a destination when a return channel between the terminal and the destination is at least one of available or established.

66. (Previously Presented) A computer program product according to Claim 63, wherein the second executable portion is configured to store at least one content usage statistic further comprising at least one statistic related to at least one of the terminal or the at least one piece of content accessed from the memory of the terminal.

67. (Previously Presented) A computer program product according to Claim 63, wherein the first executable portion is configured to access at least one piece of content from a memory of a terminal in an offline manner.

68. (Previously Presented) A computer program product according to Claim 63, wherein the first executable portion is configured to repeatedly access at least one piece of content and the second executable portion is configured to store at least one content usage statistic comprise being configured to repeatedly access at least one piece of content and store at least one content usage statistic for a period of time before broadcasting the broadcast content, and wherein the third executable portion is configured to send the content usage log to a destination after the period of time and before the broadcast content is broadcast.

69. (Previously Presented) A computer program product according to Claim 63, wherein the at least one piece of pre-broadcast content comprises a set of at least one television program over a given time period for at least one television channel, wherein the first executable portion is configured to access the at least one piece of pre-broadcast content at least a predefined period of time before the broadcast content is broadcast, and wherein the predefined period of time comprises the given time period.

70. (Previously Presented) A computer program product according to Claim 63, wherein the second executable portion is configured to store at least one content usage statistic further comprising at least one of a type of the at least one piece of content accessed from the memory, a time the at least one piece of content was accessed from memory, information regarding used connection types, or information regarding available connection types comprising at least one of a signal strength, capacity or utilization rate of the connection types.

71. (Previously Presented) An apparatus according to Claim 20, wherein the controller being configured to obtain the location of the apparatus in response to the trigger includes being configured to obtain a geographic location of the apparatus in response to the trigger.

9. ***Evidence Appendix.***

None.

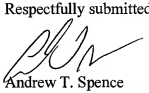
10. ***Related Proceedings Appendix.***

None.

CONCLUSION

For at least the foregoing reasons, Appellant respectfully requests that the rejections be reversed.

Respectfully submitted,



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